

DE 11-140

**BLACK BEAR HVGW, LLC**

*Davenport Street, P.O. Box 276*

*Milford, ME 04461*

13 June 2011

Ms. Debra A. Howland  
Executive Director and Secretary  
New Hampshire Public Utilities Commission  
21 South Fruit St., Suite 10  
Concord, NH 03301-2429



**RE: BLACK BEAR HVGW, LLC REQUEST FOR CERTIFICATION OF THE  
HOWLAND HYDROELECTRIC PROJECT (FERC NO. 2721) AS A  
CLASS IV RENEWABLE ENERGY SOURCE**

Dear Ms. Howland:

Black Bear HVGW, LLC ("Black Bear") hereby requests that the New Hampshire Public Utilities Commission certify Black Bear's Howland Hydroelectric Project (FERC No. 2721) as an eligible Class IV renewable energy sources pursuant to New Hampshire R.S.A. 362- F:4(IV) and F:13 and Admin. Code Puc 2502.10 Electric Renewable Portfolio Standard.

In support of the request for Class IV eligibility for the Howland Hydroelectric Project, Black Bear submits an original and seven copies of the completed application, required documentation and supplemental supporting information.

Thank you for your consideration of Black Bear's requests. If you have any questions or need additional information, please contact me at (207) 827-5364 or shall@blackbearhydro.com.

Sincerely,

Scott D. Hall  
Vice President – Environmental & Business Services

Enclosures

UC JUN14'11 AM10:20

cc: Maureen Reno, New Hampshire Public Utilities Commission

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**APPLICATION OF BLACK BEAR HYDRO PARTNERS, LLC  
FOR CLASS IV RENEWABLE ENERGY SOURCE ELIGIBILITY  
OF HOWLAND HYDROELECTRIC PROJECT (FERC No. 2721)**

**Pursuant to New Hampshire Admin. Code Puc 2500 Rules**

*13 June 2011*

**1. ELIGIBILITY CLASS APPLIED FOR:** ☐ I ☐ II ☐ III ☒ IV

2. Applicant's legal name: Black Bear HVGW , LLC

3. Address: (1) Davenport Street

(2) PO Box 276

(3) Milford ME 04461  
(City) (State) (Zip code)

4. Telephone number: 207-827-5364 or 207-461-3617

5. Facsimile number: 207-827-4102

6. Email address: shall@blackbearhydro.com

7. Facility name: Howland Hydroelectric Project (FERC No. 2721)

8. Facility location: (1) Old County Road (Route 155)

(2) Howland ME 04448  
(City) (State) (Zip code)

9. Latitude: 45° 14' 18.64" N Longitude: 68° 39' 25.53" W

10. The name and telephone number of the facility's operator, if different from the owner: Same ☒

(Name) (Telephone Number)

11. The ISO-New England asset identification number, if applicable: 16524 or N/A [ ]

12. The GIS facility code, if applicable: MSS16524 Under 5MW – Howland or N/A [ ]

13. A description of the facility, including fuel type, gross nameplate generation capacity, the initial commercial operation date, and the date it began operation, if different.

**Please see Supplemental Information Sheet.**

14. If Class I certification is sought for a generation facility that uses biomass, the applicant shall submit:

- (a) quarterly average NOx emission rates over the past rolling year,
- (b) the most recent average particulate matter emission rates as required by the New Hampshire Department of, Environmental Services (NFIDES),
- (c) a description of the pollution control equipment or proposed practices for compliance with such requirements,
- (d) proof that a copy of the completed application has been filed with the NHDES, and
- (e) conduct a stack test to verify compliance with the emission standard for particulate matter no later than 12 months prior to the end of the subject calendar quarter except as provided for in RSA 362-F:12,II.
- (f) ☒ N/A: Class I certification is NOT being sought for a generation facility that uses biomass.

15. If Class I certification is sought for the incremental new production of electricity by a generation facility that uses biomass, methane or hydroelectric technologies to produce energy, the applicant shall:

- (a) demonstrate that it has made capital investments after January 1,2006 with the successful purpose of improving the efficiency or increasing the output of renewable energy from the facility, and
- (b) supply the historical generation baseline as defined in RSA 362-F:2,X.
- (c) ☒ N/A: Class I certification is NOT being sought for the incremental new production of electricity by a generation facility that uses biomass, methane or hydroelectric technologies.

16. If Class I certification is sought for repowered Class III or Class IV sources, the applicant shall:

- (a) demonstrate that it has made new capital investments for the purpose of restoring unusable generation capacity or adding to the existing capacity, in light of the NHDES environmental permitting requirements or otherwise, and
- (b) provide documentation that eighty percent of its tax basis in the resulting plant and equipment of the eligible generation capacity, including the NHDES permitting requirements for new plants, but exclusive of any tax basis in real property and intangible assets, is derived from the new capital investments.
- (c) ☒ N/A: Class I certification is NOT being sought for repowered Class III or Class IV sources.

17. If Class I certification is sought for formerly nonrenewable energy electric generation facilities, the applicant shall:

- (a) demonstrate that it has made new capital investments for the purpose of repowering with eligible biomass technologies or methane gas and complies with the certification requirements of Puc 2505.04, if using biomass fuels, and
- (b) ☐ provide documentation that eighty percent of its tax basis in the resulting generation unit, including NHDES permitting requirements for new plants, but exclusive of any tax basis in real property and intangible assets, is derived from the new capital investments.
- (c) ☒ N/A: Class I certification is NOT being sought for formerly nonrenewable energy electric generation facilities.

18. If Class IV certification is sought for an existing small hydroelectric facility, the applicant shall submit proof that:

- (a) it has installed upstream and downstream diadromous fish passages that have been required and approved under the terms of its license or exemption from the Federal Energy Regulatory Commission, and
- (b) when required, has documented applicable state water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects.
- (c) ☐ N/A: Class IV certification is NOT being sought for existing small hydroelectric facilities.

**Please see Supplemental Information Sheet.**

19. If the source is located in a control area adjacent to the New England control area, the applicant shall submit proof that the energy is delivered within the New England control area and such delivery is verified using the documentation required in Puc 2504.01(a)(2) a. to e.

**Please see Supplemental Information Sheet.**

20. All other necessary regulatory approvals, including any reviews, approvals or permits required by the NHDES or the environmental protection agency in the facility's state.

**Please see Supplemental Information Sheet.**

21. Proof that the applicant either has an approved interconnection study on file with the commission, is a party to a currently effective interconnection agreement, or is otherwise not required to undertake an interconnection study.

**Please see Supplemental Information Sheet.**

22. A description of how the generation facility is connected to the regional power pool of the local electric distribution utility.

**Please see Supplemental Information Sheet.**

23. A statement as to whether the facility has been certified under another non-federal jurisdiction's renewable portfolio standard and proof thereof.

**Please see Supplemental Information Sheet.**

24. A statement as to whether the facility's output has been verified by ISO-New England.

**Please see Supplemental Information Sheet.**

25. A description of how the facility's output is reported to the GIS if not verified by ISO-New England.

**Please see Supplemental Information Sheet.**

26. An affidavit by the owner attesting to the accuracy of the contents of the application.

**Please see Supplemental Information Sheet.**

27. Such other information as the applicant wishes to provide to assist in classification of the generating facility.

**Please see Supplemental Information Sheet.**

28. This application and all future correspondence should be sent to:

Ms. Debra A. Howland  
Executive Director and Secretary  
State of New Hampshire  
Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

29. Preparer's information:

Name: Scott D. Hall

Title: Vice President - Environmental & Business Services

Address: (1) Davenport Street

(2) PO Box 276

(3) Milford ME 04461  
(City) (State) (Zip code)

30. Preparer's signature: 

**SUPPLEMENTAL INFORMATION IN SUPPORT OF  
BLACK BEAR HVGW, LLC'S APPLICATION FOR  
CLASS IV RENEWABLE ENERGY SOURCE ELIGIBILITY  
OF ITS HOWLAND HYDROELECTRIC PROJECT (FERC NO. 2721)**

Black Bear HVGW, LLC ("Black Bear") submits the following information in response to the respective information requests contained in the completed application form (organized by number). In addition, Black Bear has included a general description of the Howland Hydroelectric Project and additional information in Section 27 in support of the Project's eligibility as a Class IV renewable energy source pursuant to New Hampshire R.S.A. 362-F:4(IV) and F:13 and Admin. Code Puc 2502.10. Black Bear operates the Howland Project through a lease arrangement (see attached pertinent parts) with the Penobscot River Restoration Trust, the project licensee, whereby Black Bear has the rights to, "make sales of any capacity, energy and ancillary services or any other products produced by the Facility..."

**Sections 1 through 12.** – Please see Application Form.

**Section 13.** A description of the facility, including fuel type, gross nameplate generation capacity, the initial commercial operation date, and the date it began operation, if different.

The Howland Hydroelectric Project is a run-of-river hydroelectric generating facility located on the Piscataquis River in Howland, Maine with a gross nameplate generating capacity of 1.875 MW. The Howland Project commenced initial commercial operations in 1916.

**Sections 14 through 17.** – Please see Application Form.

**Section 18. If Class IV certification is sought for an existing small hydroelectric facility, the applicant shall submit proof that: (a) it has installed upstream and downstream diadromous fish passages that have been required and approved under the terms of its license or exemption from the Federal Energy Regulatory Commission, and (b) when required, has documented applicable state water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects.**

In compliance with the existing Federal Energy Regulatory Commission (FERC) license (and the recent transfer/acceptance of the license transfer) for the Howland Hydroelectric Project, and associated Water Quality Certification (See Attachment - Section 20), both upstream and downstream diadromous fish passage facilities are currently operated at the Howland Project. Please see the attached photos (Attachment – Section 18). In accordance with the FERC/Maine Department of Environmental Protection orders, the Howland Hydro Project and its fish passage facilities will be operated under the terms and conditions of the existing license until such time the Project is decommissioned and the bypass is constructed, as called for in the respective orders.

**Section 19. If the source is located in a control area adjacent to the New England control area, the applicant shall submit proof that the energy is delivered within the New England control area and such delivery is verified using the documentation required in Puc 2504.01(a)(2) a. to e.**

Not applicable since the Howland Hydroelectric Project is located within ISO-New England.

**Section 20. All other necessary regulatory approvals, including any reviews, approvals or permits required by the NHDES or the environmental protection agency in the facility's state.**

Please see the attached Federal Energy Regulatory Commission license orders for the Howland Hydroelectric Project, and the related Water Quality Certification for the Howland Hydroelectric Project (Attachment – Section 20).

**Section 21. Proof that the applicant either has an approved interconnection study on file with the commission, is a party to a currently effective interconnection agreement, or is otherwise not required to undertake an interconnection study.**

Please see attached the pertinent parts of the interconnection agreement with Bangor Hydro Electric Company for the Howland Hydroelectric Project (Attachment – Section 21).

**Section 22. A description of how the generation facility is connected to the regional power pool of the local electric distribution utility.**

The Howland Hydroelectric Project generating station is located immediately adjacent to the GSU transformer that is located in a very small former distribution substation that is now part of the project assets. The three (3) powerhouse generators generate at 2.4 KV and the 2.4 KV to 12.5 KV GSU transformer, a single 3-phase 1500 KVA transformer, is directly interconnected with Bangor Hydro Electric Company's (BHEC) 12.5 KV local distribution circuit through the GSU transformer low and high side breakers. That 12.5 KV local distribution circuit is connected to BHEC's substation 12.5 KV bus. That 12.5 KV circuit is then connected to BHEC's 46 KV Line 82 transmission line by a 46KV to 12.5 KV step-down transformer and high side disconnects. Line 82 is connected to BHEC's 46 KV Stanford Substation that is, in turn, connected by BHEC's 46 KV Line 80 to BHEC's Milford Substation. The BHEC Milford Substation is connected to BHEC's Line 7 which is then connected to BHEC's 115 KV pool transmission facility Graham Station Substation by a 115 KV to 46 KV step-down transformer.



**Section 23. A statement as to whether the facility has been certified under another non-federal jurisdiction's renewable portfolio standard and proof thereof.**

The Howland Hydroelectric Project currently qualifies as a Class II renewable energy source in the State of Maine. Pursuant to Maine's Portfolio Requirement set forth in the Maine Public Utilities Commission Rules Chapter 311, Section 4, qualification as a Class II resource in Maine does not require certification from the Maine Commission (unlike Class I new renewable resources which must be certified pursuant to Section 3(B)(4) of Chapter 311).

In addition, as provided in Section 12 of this application the Howland Hydroelectric Project's GIS facility code is MSS16524, Under5MW – Howland, and the GIS system confirms that the Howland Project is eligible for Maine Class II renewable energy credits (Attachment – Section 23).

**Section 24. A statement as to whether the facility's output has been verified by ISO-New England.**

The Howland Hydroelectric Project is a settlement only generator (asset identification number 16524) and its output is verified by the ISO New England.

**Section 25. A description of how the facility's output is reported to the GIS if not verified by ISO-New England.**

Not applicable since the Howland Hydroelectric Project output is verified by the ISO-New England.

**Section 26. An affidavit by the owner attesting to the accuracy of the contents of the application.**

Please see attached affidavit of Scott D. Hall, Vice President – Environmental & Business Services, attesting to the accuracy of the contents of this application (Attachment – Section 26).

**Section 27. Such other information as the applicant wishes to provide to assist in classification of the generating facility.**

The Howland Project's license was transferred from Bangor Hydro-Electric Company to Penobscot Hydro, LLC, which later changed its name to PPL Maine, LLC ("PPL Maine") by Federal Energy Regulatory Commission order dated April 1, 1999 (87 FERC ¶62,001). The Howland Project license was subsequently transferred from PPL Maine to the Penobscot River Restoration Trust (Trust) by FERC order dated January 6, 2009 (126 FERC ¶62,005). Black Bear HVGW, LLC (Black Bear) operates the Howland Project through a lease arrangement (see attached pertinent parts) with the Trust, whereby Black Bear has the rights to, "make sales of any capacity, energy and ancillary services or any other products produced by the Facility..."

The various Federal Energy Regulatory Commission, Maine Department of Environmental Protection, and commercial orders and documents are provided herein in pertinent parts that include the applicable citations. Complete copies can be provided upon request if necessary.

# *Attachment – Section 18*

**Example of diadromous fish passage facilities at the Howland Hydroelectric Project.**



*Downstream bypass fishway*



*Upstream Denil fishway*

# *Attachment – Section 20*

126 FERC ¶ 62,005  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

PPL Maine, LLC  
Penobscot River Restoration Trust

Project Nos. 2403-057  
2721-021

ORDER APPROVING TRANSFER OF LICENSE

(Issued January 06, 2009)

By application filed November 7, 2008, PPL Maine, LLC (transferor) and Penobscot River Restoration Trust (transferee) seek Commission approval to transfer the licenses for the 8.4-megawatt Veazie Project No. 2403 and the 1.9-megawatt Howland Project No. 2721, from transferor to transferee. The projects are located on the Penobscot and Piscataquis Rivers respectively in Penobscot County, Maine.

Public notice of the application was issued on November 20, 2008, setting December 20, 2008, as the deadline for filing comments, protests, and motions to intervene. Motions to intervene were filed by the U.S. Department of the Interior (Interior) and the Maine State Planning Office. Comments were filed by Interior, The National Marine Fisheries Service (NMFS), and The Maine Department of Marine Resources (MDMR). Protests were filed on both projects by The Millinocket Fin & Feather Club (Club) and on the Howland Project by Paul Johnson and Scott Roy.

The comments filed by Interior, NMFS, and MDMR support the transfer in conjunction with the Penobscot River Restoration Project. The filings made by the Club, Mr. Johnson, and Mr. Roy protest the removal of the dams and construction of fish bypass because of the concern of invasive species spreading up the Penobscot River and into the Piscataquis River.

The concerns put forward by the protests of the Club, Mr. Johnson, and Mr. Roy are outside the scope of this administrative transfer of license proceeding. These protests speak to the surrender and decommissioning of the projects rather than to the transfer of the licenses. As such, these protests are premature and would more appropriately be filed in response to a notice of surrender for these projects.

Transferee has agreed to accept all of the terms and conditions of the licenses and to be bound by the licenses as if it were the original licensee.

Transferor has generally complied with the terms and conditions of the license and agrees to pay annual charges that have accrued to the date of the transfer. Transferee will be required to comply with the requirements of the license as though it were the original

Project No. 2403-057, 2721-021

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licensee. Transfer of the licenses for these projects is consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfer of the licenses for the Veazie Project No. 2403 and the Howland Project No. 2721 from PPL Maine, LLC to The Penobscot River Restoration Trust is approved.

(B) PPL Maine, LLC shall pay all annual charges that accrue up to the effective date of the transfer.

(C) Approval of the transfer is contingent upon: (1) transfer of title of the properties under license and delivery of all license instruments to The Penobscot River Restoration Trust which shall be subject to the terms and conditions of the license as though it were the original licensee; and (2) The Penobscot River Restoration Trust acknowledging acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet. Within 60 days from the date of this order, the transferee shall submit certified copies of all instruments of conveyance and the signed acceptance sheet.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 CFR §385.713.

M. Joseph Fayyad  
Engineering Team Lead  
Division of Hydropower Administration  
and Compliance

Project No. 2403-057, 2721-021

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has caused its corporate name to be signed hereto by \_\_\_\_\_, its President, and its corporate seal to be affixed hereto and attested by \_\_\_\_\_ its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a certified copy of the record of which is attached hereto.

By \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary  
(Executed in quadruplicate)



**FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D. C. 20426**

**OFFICE OF ENERGY PROJECTS**

Project Nos. 2312-020, 2403-057,  
and 2721-021 - Maine  
Great Works, Veazie and  
Howland Projects  
Penobscot River Restoration Trust

Ms. Laura Rose Day  
Executive Director  
Penobscot River Restoration Trust  
P.O. Box 5695  
Augusta, ME 04332

**JAN 10 2011**

**RE: Signed Acceptance of License Transfer**

Dear Ms. Day:

Thank you for the signed acceptance sheet and instruments of conveyance you filed on December 30, 2010, for the Great Works, Veazie, and Howland Projects. The filing satisfies the requirements of ordering paragraphs (C) of the Orders Approving Transfer of License issued January 6, 2009.

The Division of Hydropower Administration and Compliance (DHAC) has the primary responsibility for reviewing your compliance with the terms and conditions of the licenses for the recently transferred projects. The following guidelines should help you maintain compliance with your license requirements.

**Article Compliance**

The licenses contain articles that require the preparation of various analyses and studies according to the schedule established for each article. To speed the compliance process, you should review the licenses and become familiar with their article requirements. You must deliver each item to the Commission on or before the specified due date.

Please be reminded that as licensee you are responsible for compliance with the terms and conditions of your licenses, whether you either continue or initiate an agreement with a third-party contractor to conduct compliance-related

activities. If you are continuing such an agreement, we request that you include a general description of the contractor's services with the enclosed address form that you are being asked to return to the Commission.

#### Extension of Time

If you are unable to complete a required analysis or study according to the schedule established in the licenses, you must request an extension of time, in compliance with section 385.2008 of the Commission's regulations. Generally, you should file your request at least 90 days before the established due date. This extension request should state why the requirement in the article cannot be completed. It must propose a reasonable date when the analysis or study will be submitted to the Commission. If an extension request is approved, an order granting an extension of time will be issued, revising the schedule in the license for the submittal. If you need to request an extension of the deadline for the start or completion of project construction, section 4.202 of the Commission's regulations requires that you file the request 3 months before the deadline. Please be aware that an extension of time request is considered a "qualified document" and may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the e-Filing link. Please include the project number (P-2312 etc.) on any request filed.

#### Amendments

If you want to modify some aspect of the projects – to change the existing project works or operation, to revise project boundaries, to change authorized capacity, or to alter any terms and conditions – you must first obtain authorization from the Commission. If you are unsure whether it requires an amendment, you may file a determination of the need for authorization with the Secretary at the address below. Your filing should consist of a detailed description of the proposed changes, the environmental effects on the surrounding area, and copies of letters of consultation with the resource agencies. After reviewing the changes proposed in your application, the Commission will decide if it requires an amendment. You will be notified in writing of this determination.

#### Assistance

The goal of our assistance program is to help you stay in compliance with the terms and conditions of your licenses. We try to promote responsible stewardship of the nation's water resources through open communication and interaction between licensees and DHAC staff. Should you seek assistance, please contact me at (202) 502-8666. We can discuss your questions over the telephone

Project No. 2312-020 *et al.*

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or in person. In addition, we can provide informational publications to assist you with your projects.

The small business and agriculture regulatory enforcement ombudsman and ten regional fairness boards were established to receive comments from small businesses about federal agency enforcement actions. The ombudsman will annually evaluate each agency's enforcement activities against small business and rate each agency's responsiveness. If you are a small business entity, you may call 1-888-734-3247 to comment on the enforcement actions of this agency.

Mailing Address

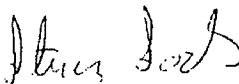
Unless indicated otherwise in your licenses, an original and 8 copies of each submittal, with a transmittal letter stating the project number and the requirement covered by the submittal in the upper right corner, should be filed with:

The Secretary  
Federal Energy Regulatory Commission  
Mail Code: DHAC PJ-12  
888 First Street, NE  
Washington, D.C. 20426

So that we may correctly address any future inquiries concerning your projects, please complete and return the enclosed address form. Please notify the Commission at the above address if this information changes.

Your cooperation in these matters will be appreciated. We look forward to working with you.

Sincerely,



Steven Sachs  
Division of Hydropower Administration  
and Compliance

Enclosure: Contact Form

cc w/o encl: John A. Whittaker, IV  
Winston and Strawn LLP  
1700 K Street NW  
Washington, DC 20006

Project Nos. 2312-020, 2403-057,  
and 2721-021 - Maine  
Great Works, Veazie and  
Howland Projects  
Penobscot River Restoration Trust

The Secretary  
Federal Energy Regulatory Commission  
Mail Code: DHAC PJ-12  
888 First Street NE  
Washington, DC 20426

Dear Madame:

The exact name, title, address, telephone and fax number, and email of the corporate president or vice-president, elected municipal official, etc., responsible for the projects:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone:

Fax:

email:

The exact name, title, address, telephone and fax number, and email of the authorized representative for day to day project activities:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone:

Fax:

email:

Prepared by:

---

Signature

cc: New York Regional Office  
19 West 34<sup>th</sup> St. Suite 400  
New York, NY 10001

131 FERC ¶ 62,238  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Penobscot River Restoration Trust  
PPL Maine, LLC  
PPL Great Works, LLC

Project Nos. 2403-056  
2312-019  
2721-020

ORDER ACCEPTING SURRENDER OF LICENSES WITH DAM REMOVAL AND  
DISMISSING APPLICATIONS FOR NEW LICENSES

(Issued June 16, 2010)

1. On November 7, 2008, and supplemented on February 23, March 11, and March 18, 2009, the Penobscot River Restoration Trust (Trust), transferee<sup>1</sup> for the Veazie Project No. 2403, Great Works Project No. 2312, and Howland Project No. 2721, filed an application to surrender the licenses for the three previously listed projects, and remove the dams associated with the Veazie and Great Works Projects.<sup>2</sup> The Veazie and Great Works Projects are located on the Penobscot River and the Howland Project is located on the Piscataquis River. All three projects are located in Penobscot County, Maine.

**Background**

**A. Settlement Agreement**

2. In June 2004, the signatories filed the Lower Penobscot River Basin Comprehensive Settlement Accord (Settlement Agreement).<sup>3</sup> The Settlement Agreement

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<sup>1</sup> On January 6, 2009, the Commission issued two orders approving transfer of two licenses from PPL Maine, LLC and one license from PPL Great Works, LLC to the Penobscot River Restoration Trust. Under the Lower Penobscot River Basin Comprehensive Settlement Accord, the property cannot be transferred until all regulatory approvals for surrender and decommissioning become final. Therefore, the license transfer does not become effective until after such requirements are fulfilled.

<sup>2</sup> The settlement agreement calls for the Trust to file these applications to surrender the licenses. Since the license transfers are not yet effective, we will treat the surrender applications as being filed on behalf of PPL Maine and PPL Great Works.

<sup>3</sup> The signatories to the Settlement Agreement are: PPL Maine, the U.S. Department of the Interior (acting through the Fish and Wildlife Service, Bureau of Indian Affairs, and the National Park Service), four State of Maine natural resource

(continued)



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION  
AUGUSTA, ME 04333

DEPARTMENT ORDER  
**FINAL**

**IN THE MATTER OF**

PENOBSCOT RIVER RESTORATION TRUST )	MAINE WATERWAY DEVELOPMENT AND
Howland )	CONSERVATION ACT AND
Penobscot County )	WATER QUALITY CERTIFICATION
HOWLAND FISH BYPASS CHANNEL )	FINDINGS OF FACT AND ORDER
#L-24419-34-A-N (Approval) )	NEW PERMIT AND CERTIFICATION

Pursuant to the provisions of the *Water Classification Program*, 38 M.R.S.A. §§ 464–470, the *Maine Waterway Development and Conservation Act*, 38 M.R.S.A. §§ 630–637, the *Administrative Rules For Hydropower Projects*, 06-096 CMR 450 (effective September 1, 1987), and Section 401 of the Federal Water Pollution Control Act (a.k.a. Clean Water Act), the Department of Environmental Protection has considered the application of the PENOBSCOT RIVER RESTORATION TRUST with its supportive data, agency review, and other related materials on file, and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

The applicant, the Penobscot River Restoration Trust (PRRT), proposes to surrender the federal operating license for and to decommission the existing Howland Hydro Project and to construct a fish bypass channel at the existing Howland Dam, located on the Piscataquis River in the Town of Howland, Penobscot County, Maine (see Exhibit 1). The purpose of the project decommissioning and fish bypass channel construction is to restore native sea-run fish, including Atlantic salmon, to the Penobscot River watershed through improved access to historic habitat as part of the larger Penobscot River Restoration Project, in accordance with the June 2004 *Lower Penobscot River Multiparty Settlement Agreement*.

2. REGULATORY HISTORY

- a. Original License. On September 20, 1980, the Federal Power Commission (predecessor to the Federal Energy Regulatory Commission) issued a license under the Federal Power Act for the operation of the constructed Howland Project. The license was issued with an expiration date of September 30, 2000. The license did not contain any specific conditions requiring the installation or operation of fish passage facilities at the project.<sup>1</sup> At the time, the project was owned and operated by Bangor-Hydroelectric Company (BHE), a regulated public utility.

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<sup>1</sup> The license notes that there was a fishway in place at the project.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of receipt of application: 11/07/2008

Date application accepted for processing: 12/02/2008



This permit has been digitally  
signed by Jody Breton on behalf of  
Commissioner David P. Littell. It is  
digitally signed pursuant to  
authority under 10 M.R.S.A. §9418.  
It has been filed with the Board of  
Environmental Protection as of the  
signature date.  
2010.07.21 07:41:26 -04'00'

This Order prepared by Dana Murch, Bureau of Land and Water Quality.



# *Attachment – Section 21*

## INTERCONNECTION AGREEMENT

INTERCONNECTION AGREEMENT, dated as of [\*], 1998 (this "Agreement"), by and between BANGOR HYDRO-ELECTRIC COMPANY (the "Seller"), a Maine corporation with a principal place of business located at 33 State Street, Bangor, Maine 04401, and PP&L GLOBAL, INC., (the "Buyer"), a Pennsylvania corporation with a principal place of business located at 11350 Random Hill Road, Suite 400, Fairfax, Virginia 22030.

### WITNESSETH:

WHEREAS, Seller and Buyer have entered into an Asset Purchase Agreement (the "APA") dated as of September 25, 1998 for the sale of, among other things, certain of Seller's generating assets;

WHEREAS, Seller intends to continue to operate its transmission and distribution business from its present locations;

WHEREAS, in the APA, Seller agreed to transfer to Buyer certain of the Purchased Assets, including certain designated real and personal properties, contracts, and licenses pertaining to Seller's generating assets and to retain certain designated real and personal properties, contracts and licenses;

WHEREAS, Buyer needs certain Interconnection Services from Seller for the generation units constituting Purchased Assets (the "Generation Units"), as provided in this Agreement;

WHEREAS, Buyer also wishes to obtain from Seller, and Seller wishes to provide to Buyer certain T&D Services over Seller's T&D System from Buyer's Generation Units, as provided in this Agreement;

WHEREAS, Seller needs access to parts of the Buyer's Purchased Assets, and Buyer needs access to parts of the Seller's retained assets; and

WHEREAS, the Parties have agreed in the APA to execute this mutually acceptable Interconnection Agreement in order to provide certain Interconnection Service and certain T&D Service to Buyer and to define the continuing responsibilities and obligations of the Parties with respect to the use of the other Party's property, assets and facilities;

NOW THEREFORE, in order to carry out the transactions contemplated by the Separation Document, the APA and this Agreement, and in consideration of the mutual representations, covenants and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties hereto agree as follows:

### ARTICLE 1.

#### DEFINITIONS

**SCHEDULE A - INTERCONNECTION FACILITIES  
AND ASSOCIATED EQUIPMENT DESCRIPTION**

**I. UNIT LOCATION: Medway Station, System Diagram Sheet 2A (Annex I)**

**NET CAPACITY**

5 Hydro-Electric Units 3.4 MW

**POINT OF INTERCONNECTION**

Connection point of load side of Buyer's transformer high side protective device to Seller's 46kV Bus in substation.

**POINT OF RECEIPT**

Same as point of connection.

**II. UNIT LOCATION: Howland Station, System Diagram Sheet 4A (Annex I)**

**NET CAPACITY**

3 Hydro-Electric Units 1.9 MW

**POINT OF INTERCONNECTION**

Connection point where BHE's Line 82 attaches to Howland Hydro's substation structure.

**POINT(S) OF RECEIPT**

Same as point of connection

**III. UNIT LOCATION: Milford Station, System Diagram Sheet 8A (Annex I)**

**NET CAPACITY**

6 Hydro-Electric Units 6.4 MW

**POINT OF INTERCONNECTION**

Connection point of load side of Buyer's transformer high side protective device to Seller's 46kV Bus in substation.

## *Attachment – Section 23*

Unit ID	Plant - Unit	Account Holder	State	Vintage	Name Plate Capacity	Fuel Type	GIS Registration Date	CT Class I	CT Class II	CT Class III	CT CEO	CT Date Of Eligibility
MSS16295	GRAHAM - PPL VEAZIE	Black Bear HVGW, LLC	MAINE	1/1/1891	8.4	Hydroelectric/Hydropower	7/15/2009 16:40	No	No	No	Yes	
MSS16524	UNDER5MW - HOWLAND	Black Bear HVGW, LLC	MAINE	1/1/1916	1.875	Hydroelectric/Hydropower	7/15/2009 16:40	No	No	No	Yes	

MA RPS Class I Renewable Gen		MA RPS Class II Renewable Gen	MA RPS Class II Waste Energy Gen	MA APS Alternative Gen	Eligible MA NOx Allowances			ME Community Renewable Energy		ME CO2 Netting	RI New Renewable Resource	RI Existing Renewable Resource	NH Class I	NH Class II	NH Class III	NH Class IV	Green-E	Low Impact Hydro Institute
No	No	No	No	No	No	No	Yes	No	No	No	No	No	No	No	No	No	No	No
No	No	No	No	No	No	No	Yes	No	No	No	No	No	No	No	No	No	No	No

## *Attachment – Section 26*

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

APPLICATION OF BLACK BEAR HVGW, LLC  
FOR CLASS IV RENEWABLE ENERGY SOURCE ELIGIBILITY  
OF STILLWATER HYDROELECTRIC PROJECT (FERC No. 2712)

Pursuant to New Hampshire Admin. Code Puc 2500 Rules

Application Section 26. Owner Affidavit Attesting to Accuracy of the Contents of Black  
Bear HVGW, LLC's Application for Class IV Renewable Energy Source Eligibility  
of Howland Hydroelectric Project (FERC No. 2721)

I certify under penalty of law that I have personally examined the information submitted in this  
Application and all attachments thereto and that, based on my inquiry of those individuals  
immediately responsible for obtaining the information, I believe the information is true and  
accurate.

DONE AND DATED THIS 13<sup>TH</sup> DAY OF JUNE, 2011.

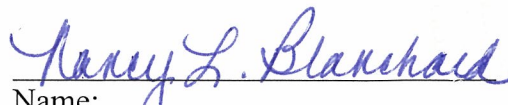
  
(signature)

Scott D. Hall  
(print or type name)

VP Env & Bus Svcs  
(title of responsible official)

STATE OF MAINE  
COUNTY OF Penobscot, ss.

Personally appeared the above-named Scott D Hall, VP Env & Bus Svcs of  
Black Bear HVGW, LLC, and subscribed and made oath to the statements contained herein on  
this 13<sup>th</sup> day of June, 2011.

  
Name:  
My Commission Expires:  
**NANCY L. BLANCHARD**  
Notary Public, Maine  
My Commission Expires January 12, 2014



## *Attachment – Section 27*

LEASE  
Howland

THIS LEASE (the "Lease"), is made as of December 8, 2010 (the "Execution Date") by and between the Penobscot River Restoration Trust, a Maine non-profit corporation (the "Trust" or "Landlord"), and Black Bear HVGW, LLC, a Delaware limited liability company ("Black Bear" or "Tenant").

WITNESSETH:

WHEREAS, the Trust intends to acquire the hydropower facility in Penobscot County, Maine, sometimes referred to as Howland (FERC Project No. 2721), including the dam, the associated hydropower facilities, and the related electric power transmission lines and associated facilities included in the FERC license as it relates to such facility, and as more fully described in Exhibit A hereto (collectively, the "Facility");

WHEREAS, this is one of three agreements (two leases and one operating agreement) between the Trust and the Tenant, each with respect to a hydroelectric facility in Penobscot County, Maine (collectively, the "Hydro Agreements");

WHEREAS, the Trust will be the FERC licensee of the Facility and will be decommissioning and removing some or all of the Facility but will need to address the operation from the date of acquisition through the date of full decommissioning and removal; and

WHEREAS, the Trust desires to Lease the Facility and the real estate related thereto to a party that has the technical and financial capability to operate and maintain the Facility, subject to the Trust's retention of rights relating to its obligations as a FERC licensee; and

WHEREAS, Black Bear has the technical and financial capability to lease, operate and maintain the Facility as set forth in this Lease, subject to the Trust's reservation of rights;

NOW THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties covenant and agree as follows:

ARTICLE 1. DEFINITIONS

Section 1.01. Business Day: Any day other than a Saturday or a Sunday or a day on which commercial banking institutions in Bangor, Maine are authorized by law to be closed.

Section 1.02. Closing: The date on which the Trust acquires title to the Facility.

Section 1.03. FERC: The Federal Energy Regulatory Commission.

Section 1.04. Governmental Approvals. Any consent, right, exemption, permit, license, authorization, certificate, order, franchise, determination, or approval of any federal, state,

Section 4.02. Event of Loss; Right to Terminate. In the event of a condemnation of or damage to or destruction of any material part of the Premises (collectively an "Event of Loss") Landlord shall have the right, in its sole discretion, to terminate this Lease or to elect to allow any proceeds to be used to repair, restore or replace the assets that were taken, damaged or destroyed by providing written notice to Tenant within 30 calendar days after the occurrence of such Event of Loss. Tenant shall have no right to direct or indirect damages from Landlord for any loss of revenues relating to the Event of Loss.

Section 4.03. Emergency Action. If after the commencement of the Term an emergency occurs that involves a potential violation of any Legal Requirements or the Licenses, a potential material adverse effect on the Premises or a potential risk to human health or safety, Tenant shall promptly notify Landlord of the emergency, describing the nature of the emergency, the steps taken or to be taken by Tenant in response to the emergency and the anticipated duration of the emergency. Tenant shall promptly take all commercially reasonable action in the exercise of Tenant's reasonable judgment to minimize or stop the emergency. In exercising its judgment, Tenant shall first consider those options which would protect health and safety, and then those options that would have the least adverse impact on the Facilities or the Licenses.

## ARTICLE 5. USE

Section 5.01. Permitted Use. Tenant shall use and occupy the Premises for hydroelectric generation purposes, and for all activities associated with or necessary for the operation and maintenance of the Facilities, and for no other purposes. In the operation and maintenance of the Facilities for hydroelectric generation purposes, Tenant shall comply with the following principles.

(a) Notwithstanding any other provision contained herein, the Tenant agrees that it shall operate the Facilities in compliance with the terms and conditions of the Licenses.

(b) Tenant acknowledges Landlord's right to exercise Landlord's Rights and agrees to cooperate with Landlord in the exercise of the Landlord's Rights.

Section 5.02. Sale of Generation. Tenant shall be entitled, in accordance with the terms and conditions of this Lease, to make sales of any capacity, energy and ancillary services or any other product produced by Facility during the Term of this Lease and shall be entitled to the proceeds of such sales.

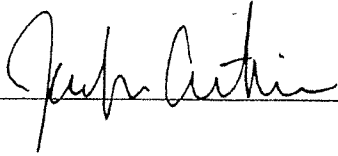
Section 5.03. Storage of Materials. All materials stored or kept on the Premises during the term hereof by Tenant shall be maintained in a manner that shall not cause a nuisance and shall not violate any Legal Requirements. Spare and replacement parts and equipment physically incorporated or installed into the Facility shall be the property of the Landlord. Tenant shall remove all property of Tenant at Tenant's sole cost and expense on or before the Lease Expiration Date.

IN WITNESS WHEREOF, the Landlord and Tenant have caused this Lease to be duly executed and delivered as of the date first above written.

**Landlord:**

ATTEST:

PENOBSCOT RIVER RESTORATION TRUST



By: 

Name: Laura Rose Day

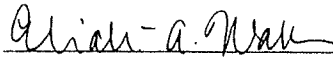
Title: Executive Director

Dated: December 8, 2010

**Tenant:**

WITNESS:

BLACK BEAR HVGW, LLC



By: 

Name: Daniel R. Revers

Title: President

Dated: 12/13/2010